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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,275	04/14/2004	James P. Jones	WNMIUSA	6206
270	7590	11/30/2005	EXAMINER	
HOWSON AND HOWSON ONE SPRING HOUSE CORPORATION CENTER BOX 457 321 NORRISTOWN ROAD SPRING HOUSE, PA 19477			MILLER, DANIEL H	
			ART UNIT	PAPER NUMBER
			1775	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,275	<b>Applicant(s)</b> JONES, JAMES P.	
	<b>Examiner</b> Daniel Miller	<b>Art Unit</b> 1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (U.S. 5,104,475) in view of Layman et al (U.S. 4,489,115).

Foster teaches a carpet (playing surface) using an edge-to-edge relationship held together using a seam made from polyamide hot-melt and fiberglass fibers (see abstract and column 3 line 1-10). The carpet additionally has a cushioning layer adhesively connected to the floor (column 3 line 50-65). It is the examiners position that the polyamide hot-melt of Foster will inherently possess a softening point about 140 or 150 degrees C. Foster is silent as to being specifically used as an artificial turf, or having a polyurethane backing.

Layman teaches an artificial turf having foamed polyurethane backing (or pad). The backing is used to provide dimensional stability and provide shock absorbing (see abstract and column 3 line 1-25).

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It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the carpet of Foster by providing a backing as taught by Layman to provide a playing surface of greater dimensional stability and shock absorption.

Claims 6 and 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (U.S. 5,104,475) in view of Layman as applied to claim 1 above, and further in view of Spendlove (U.S. 6043,302).

Foster in view of Layman, discussed above, is silent on the cushion layers being made of rubber.

Spendlove teaches an impact absorbing material made from particulate rubber in a binder used for sports pitches and athletic tracks (abstract). It can be overlaid with a simple sand filled carpet for athletics providing a firm base (column 3 line 1-20). Further, the applicant admits in his specifications background that rubber pads are known in the art.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the padding of Spendlove in the structure of Foster and Layman because it can be overlaid with a simple sand filled carpet for athletics providing a firm base. It would further be obvious from the disclosures of Foster and Layman that an attached padding or cushion is contemplated to be bonded to an adjacent member using the same means as that used to attach the turf itself.

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Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al (U.S. 5,104,475) in view of Layman et al (U.S. 4,489,115) in view of Spendlove (U.S. 6043,302) as applied to claim 6 above, and further in view of Kocinec et al (PG-PUB 2003/0044563 A1).

Foster further in view of Spendlove teach all the limitations of claims 6 as above but are silent on the tape having a polyester fabric backing.

Kocinec teaches a multi-layered hot melt tape with a polyester fabric backing (see abstract). The tape is useful to create a waterproof seam and repairs of rips, tears, or perforations in a fabric (U.S. 0010, 0017).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to substitute the tape backing of Kocinec with the tape backing taught by Spendlove to create a waterproof seam.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster in view of Layman.

Foster teaches a carpet (playing surface) using an edge-to-edge relationship held together using a seam made from polyamide hot-melt and fiberglass fibers (see abstract and column 3 line 1-10). The carpet additionally has a cushioning layer adhesively connected to the floor (column 3 line 50-65). It is the examiners position that the polyamide hot-melt of Foster will inherently possess a softening point about 140 or 150 degrees C. Foster is silent as to a polyurethane backing. Layman teaches an artificial turf having foamed polyurethane backing (or pad). The backing is used to provide

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dimensional stability and provide shock absorbing (see abstract and column 3 line 1-25). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the carpet of Foster by providing a backing as taught by Layman to provide a playing surface of greater dimensional stability and shock absorption.

Regarding claim 11, the inclusion of a third layer of artificial turf would be obvious predicated on the area to be covered.

### ***Response to Arguments***

1. Applicant's arguments filed September 14, 2005 have been fully considered but they are not persuasive. Applicant argues that the combination of Foster in view of Layman destroys the function of Layman and therefore cannot be combined. It is the position of the examiner that Layman is used to show that the use of a polyurethane backing is known in the art and its inclusion in the carpet of Foster would be obvious. As applicant has admitted, this is conventional with latex backed carpet. Applicant has provided no specific definition for "artificial turf". Therefore, the carpet of Foster meets the requirements. No patentable distinction is seen.

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Miller whose telephone number is (571)272-1534. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571)272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Miller

  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER